IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

W.P.Nos.3141, 3142, 3143 and 3167 of 2005

WRIT PETITION NO : 3141 of 2005

Between:

M/s.Mc.Dowell & Company Limited, Nacharam, Hyderabad, rep.by its General Manager
Mr.B.Narayana Raju.

..... PETITIONER

AND

1 The Commercial Tax officer, Nacharam Circle, Hyderabad.
2 The Appellate Deputy Commissioner (CT), Rural Division, Hyd'bad.
3 The Additional Commissioner (CT) (Legal), Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly in the nature of writ of certiorari, calling for the record relating to order of the Additional Commissioner (CT (Legal,) Hyderabad, dt.24-01-2005 in CCT's Ref.L.III(4)/15/2003-III, for the Assessment year 1999-2000, and also consequential demand notice vide Asst.No. 11006/99-2K(APGST) dt.28-01-2005 issued by the Respondent No.3 and quash the same and pass such other order or order as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.CHAKRAPANI

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

WRIT PETITION NO : 3142 of 2005

Between:

M/s. McDowell & Company Limited, Nacharam, Hyderabad,
rep by its General Manager, Mr. B. Narayana Raju

..... PETITIONER

AND

1 The Commercial Tax Officer, Nacharam Circle, Hyderabad.
2 The Appellate Deputy Commissioner (CT), Rural Division, Hyderabad.
3 The Additional Commissioner (CT), (Legal), Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of Writ of Certiorari, calling for the record relating to order of the Additional Commissioner (CT) (Legal), Hyderabad, dt. 24-1-2005 in CCT's Ref.L.III(4)/15/2003-IV, for the Assessment Year 2000-2001, and also consequential demand notice vice Asst. No. 11006/2000-01(APGST) dt. 28-1-2005 issued by the Respondent No. 3 and quash the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.S.CHAKRAPANI

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

WRIT PETITION NO : 3143 of 2005

Between:

M/s Mcdowell and Company Limited, Nacharam, Hyderabad,
rep. by its General Manager Mr.B.Narayana Raju.

..... PETITIONER

AND

1 The Commercial Tax Officer Nacharam Circle, Hyderabad.
2 The Appellate Deputy Commissioner (CT) Rural Division, Hyderabad.
3 The Additional Commissioner (CT) (Legal) Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue writ order or direction more particularly in the nature of writ of Certiorari, calling for the record relating to order of the Additional Commissioner (CT) (Legal), Hyderabad, dt.24.1.2005, in CCT's Ref.L.III (4)/15/2003-II, for the Assessment year 1998-99 and also consequential demand notice Vide Asst.No.11006/98-99 (APGST) Dt.28.1.2005 issued by the Respondent No.3 and quash the same and pass such other order or orders.

Counsel for the Petitioner: MR.S.CHAKRAPANI

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

WRIT PETITION NO : 3167 of 2005

Between:

M/s. McDowell & Company Limited, Nacharam, Hyderabad,
rep by its General Manager, Mr. B. Narayana Raju

..... PETITIONER

AND

1 The Commercial Tax Officer, Nacharam Circle, Hyderabad.
2 The Appellate Deputy Commissioner (CT), Rural Division, Hyderabad.
3 The Additional Commissioner (CT) (Legal), Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of Writ of Certiorari, calling for the record relating to order of the Additional Commissioner (CT) (Legal), Hyderabad, dt. 24-1-2005 in CCT's Ref.L.III(4)/15/2003-IV, for the Assessment Year 1997-98, and also consequential demand notice vice Asst. No. 11006/97-98(APGST) dt. 28-1-2005 issued by the Respondent No. 3 and quash the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.S.CHAKRAPANI

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following:

COMMON ORDER (Per Hon'ble Sri Justice M.H.S.Ansari, J.)

After having heard learned counsel for the respective parties and the view that we have taken in the matter, we are inclined to dispose of the instant writ petitions at the admission stage with certain appropriate directions. The reasons therefor will be apparent from what is stated hereinafter.

Aggrieved by the orders of the learned Additional Commissioner (CT)

(Legal) – 3rd respondent herein dated 24.1.2005 for the assessment years 1997-98, 1998-99, 1999-2000 and 2000-01 under the A.P.G.S.T.Act whereby the orders of the Appellate Deputy Commissioner (CT) for the relevant years were set aside, the petitioner has preferred the above four writ petitions alleging violation of principles of natural justice and praying for setting aside the respective orders passed for the relevant years, in question, on the said grounds.

It is stated that show cause notice was issued by the previous incumbent in the office of the learned Additional Commissioner (CT) (Legal) and orders impugned in the respective writ petitions was passed by the successor in office. Pursuant to the notice of hearing, the predecessor in office heard the representative of the assessee-petitioner but did not pass orders. Instead the same were passed by the successor in office. It was represented before us that the order is based on the detailed objections and paper book filed by the assessee before the 3rd respondent herein.

It is not disputed that the counsel for the petitioner was not heard by the learned successor in office who passed orders impugned in the instant writ petitions for the respective relevant assessment years.

In that view of the matter, we are inclined to accept the contentions of the petitioner as to the violation of principles of natural justice vitiating the impugned orders for the relevant assessment years. Accordingly, the assessment orders, impugned herein, are aside. Consequently the matters require to be remitted back to the learned 3rd respondent herein for passing orders afresh in accordance with law and in compliance with the principles of natural justice i.e., after affording hearing to the petitioner and/or his counsel. It is so directed.

The learned Standing Counsel for respondents at this stage submitted that in the event this Court is remitting the matter for de novo consideration, a date may be fixed by this Court for the appearance of the petitioner and his counsel before the 3rd

respondent for hearing and it was suggested that any date may be fixed by this Court in the month of March for hearing.

Although some difficulty is expressed by the learned senior counsel for the petitioner as to the date to be fixed, we are of the view that a reasonable date can be fixed as suggested by the learned Standing Counsel for C.T., in the month of March so that the matter can be heard de novo on the date as may be fixed by us for hearing. Accordingly, we direct that the petitioner and/or his counsel shall appear before the learned 3rd respondent herein on March 25, 2005 for hearing of matters hereby remitted and thereafter same shall be disposed of by the learned 3rd respondent in accordance with law.

The writ petitions, accordingly, are allowed with the directions, as above. No order as to costs.

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(M.H.S.ANSARI, J.)

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(T.CH.SURYA RAO, J.)

24.02.2005

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To

1 The Commercial Tax Officer, Nacharam Circle, Hyderabad.
2 The Appellate Deputy Commissioner (CT), Rural Division, Hyderabad.
3 The Additional Commissioner (CT) (Legal), Hyderabad.

4. Two copies to the G.P. for C.T. (O.U.T)

5. 2 C.D. copies